

The Planning Commission for the City of Junction City met on Wednesday, February 12, 2014, at 6:30 p.m. in the Council Chambers at City Hall, 680 Greenwood Street, Junction City Oregon.

PRESENT WERE: Commissioners, Jason Thiesfeld (Chair), Sandra Dunn (Vice-Chair), Jeff Haag, Patricia Phelan, Jack Sumner, Robert Solberg and James Hukill ; Planning Commission Alternates (Vacant); Contracted Planner, Gary Darnielle, Lane Council of Governments; City Administrator, Melissa Bowers; and Planning Secretary, Tere Andrews; **ABSENT:** None

1. OPEN MEETING AND PLEDGE OF ALLEGIANCE

Chair Thiesfeld opened the meeting at 6:30p.m. He then led the Pledge of Allegiance.

2. REVIEW AGENDA

Chair Thiesfeld reviewed the agenda.

3. PUBLIC COMMENT (FOR ITEMS NOT ALREADY ON THE AGENDA)

None

4. APPROVAL OF MINUTES

●JANUARY 21, 2014

Motion: Commissioner Hukill made a motion to approve the January 21, 2014 minutes as written. Commissioner Dunn seconded the motion.

Vote: 7:0:0

Chair Thiesfeld, Commissioners, Haag, Dunn, Hukill, Phelan, Sumner and Solberg voted in favor.

5-a. PUBLIC HEARING- IVORY LLC ANNEXATION (A-13-01)

Chair Thiesfeld opened the public hearing for A-13-01, Ivory LLC Annexation and asked if any Commissioner had a bias, ex parte contact or actual or potential conflict of interest to declare.

Commissioner Sumner said he had visited the site and spoken to the applicant. He stated he could make an unbiased decision.

Commissioner Haag stated the applicant was a friend. He stated he could render an unbiased decision.

Commissioner Dunn stated she knew the applicant from the Comprehensive Plan update process.

Staff Report

Planner Darnielle stated on November 21, 2013 the City received a Land Use application from Ivory, LLC represented by Mr. William Boresek and the Law Office of Bill Kloos. This was for the annexation of tax lot 700 Assessors Map 16-04-08-00 and tax lot 400 Assessors Map 16-04-08-31. The property was 40.66 acres and located at the southwest corner of the intersection of Highways 36 and 99. It was contiguous to the city limits along the western boundary of Highway 99. The application was assigned the file number A-13-01 and deemed complete on December 13, 2013. Staff recommended conditional approval of the request.

The property subject to the request was designated as Commercial on the Junction City Comprehensive Plan map and recently included in the Urban Growth Boundary (UGB) expansion through Ordinance 1212 adopted in September of 2012.

Planner Darnielle noted some corrections to the proposed Final Order and the Staff Report. There were as follows:

- The Staff Report recognized the date of the Planning Commission Public Hearing as January 21, 2014; it was continued from that date to February 12, 2014. The Public Hearing was on February 12, 2014.
- The Finding near the top of page 5 of the proposed Final Order stated the annexation was in accordance with ORS (Oregon Revised Statutes) 222.170 and described it as a triple majority, in fact the Ivory LLC annexation was a double majority and subject to ORS 222.125. A double majority meant all the owners of land and at least 50% of the electors within the territory to be annexed gave written approval.
- There was an erroneous citation to the ORS on page 11 of the proposed Final Order, it read ORS 222.170, and it should have read ORS 222.125.
- On page 3 of 5 of the Staff Report, the third paragraph read “the site is immediately south of Highway 37” it should have read “Highway 36” Planner Darnielle noted the identification of Highway 36 was correct throughout the remainder of the Staff Report.

Commissioner Haag noted one additional correction on page 12 of 12 (proposed Final Order) stated the agreement shall be signed prior to the March 8, 2011 public hearing.

Planner Darnielle stated the requirements for an annexation had been met by the submission of an application per Junction City Municipal Code (JCMC) 17.165.090.

The proposed Final Order set out all of the approval criteria for annexations (JCMC 17.165.110). Planner Darnielle summarized the criteria and how the property met/did not meet said criteria. The property proposed for annexation was within the UGB and contiguous to city limits. The annexation had to be consistent with applicable policies in the Comprehensive Plan. The proposed Final Order addressed a number of the policies in the Comprehensive Plan that were applicable such as consistency with the Statewide Planning Goals. The property would need the ability to have City water and sewer and there needed to be sufficient capacity of those services to supply the property. Storm drainage would be provided on site. Access to the subject property was immediately adjacent to Highways 36 and 99. The staff report stated the current peak water demand within the city exceeded the pumping capacity by about 13%, and sewer was similar.

Commissioner Haag asked to discuss the question of capacity. At the February 11, 2014 City Council meeting they were told that the city was on track to finish the water treatment facility March 31, 2014. Therefore, there should be enough water capacity. He did not understand the statement that there was not sewer capacity since the city owned about 52% of the capacity of the line that crossed the subject property.

Chair Thiesfeld clarified once the new treatment plant was operational that 13% over capacity would no longer hold true.

Planner Darnielle agreed. He was only speaking of conditions, as they existed today.

Commissioner Sumner asked for comment from Public Works Director, Jason Knope (attended as an audience member).

Director Knope said the water capacity currently ran at about 90% to 95% of the production capacity. The two (2) year capital improvements plan included construction of another production well, that would add buffer room. Part of the room now was due to water conservation over the past several years. On the sewer side as part of the city's Mutual Agreement Order (MAO), the city was required to do improvements; those were scheduled to be completed by October 2014. The MAO secured treatment capacity, not pipe capacity. This was the area of concern from the Department of Environmental Quality (DEQ). All of the property that was on the current expansion area of the Urban Growth Boundary was part of that negotiation. The city negotiated a certain number of EDU's (Equivalent Dwelling Units) which was above anything properties down south could use. As far as the sewer capacity, DEQ would only weigh in on mainline extensions, not service line extensions. In the case of the subject property, the mainline was already in place and DEQ already agreed to allow connections to it and not contest it as long as the city performed in accordance with the MAO.

Commissioner Haag summarized that means there was sewer capacity.

Director Knope agreed.

Commissioner Haag thanked Director Knope for his time.

Planner Darnielle said staff was misinformed.

Commissioner Haag said it had been a tangled issue for five (5) years and Planner Darnielle was new.

Planner Darnielle noted the applicant was not proposing development at this time. The storm water would be treated on site and in conformance with the discharge limits established by the Junction City Water Control District.

Conditions of approval were associated with each of the criteria. They stated that at the time of zone change, availability of services needed to be demonstrated. Staff understood that at the time of zone change and/or development a traffic impact analysis (TIA) would be required.

The annexation also needed to conform to Oregon State law. The annexation did conform to the statutory requirements for a double majority. The record contained a copy of the signatures petitioned from the property owners and verification that there were no electors in the property to be annexed.

Junction City Municipal Code also required that key services could be provided to the subject property. A signed annexation agreement to resolve fiscal impacts shall be provided. There was not currently an annexation agreement before the Planning Commission.

The Applicant's attorney emailed a memo, which was received late in the afternoon on February 12, 2014. Staff did not have time to look at the memo in depth. Planner Darnielle's first impression was that staff did not agree with the applicant's attorney but would need time to review to respond with any specificity.

Planner Darnielle reported that the Planning Commission had a number of options in terms of actions to be taken. The Commission could make a recommendation of approval or denial. It was also possible to make a 'no recommendation to council' due to late submission of information or the public hearing could be continued. This would be to allow time for the Commission to review and ask for staff response. The applicant's attorney would speak to the memo and it may be that everything would be cleared up after that discussion.

Proponent Testimony

Chair Thiesfeld asked if there were audience members who wished to make remarks.

Mr. Gary Crum, 25534 Hall Road, Junction City Oregon spoke in favor of the application. He noted Grain Millers had postponed plans to develop their property off of Meadowview Road. He also discussed the State Mental Hospital. He said the State and City assured the community that there was adequate sewer capacity. The number of patients was reduced to 174 from 350. He felt that was plenty of capacity. Developers desired "shovel-ready" properties. He felt the community needed to do everything possible to make the property shovel-ready. He asked the Commission to vote in favor of the applicant.

Chair Thiesfeld asked if the Commission had questions for Mr. Crum.

There were none.

Mr. Bruce Anderson, 94705 Oaklea Drive, Junction City Oregon spoke in favor of the applicant's petition for annexation. He felt the annexation was a win-win for all concerned.

Applicant Testimony

Chair Thiesfeld asked if the applicant had comments. Mr. Nick Klingensmith of the Law Office of Bill Kloos, 375 W 4th Avenue Eugene OR, said he assisted the applicant in preparation of the application. He welcomed questions from the Commission. He had reviewed the staff report, proposed final order and conditions of approval and felt they were generally on the right track. He noted the application was for an annexation alone. The conditions of approval that were of concern were those that referred to future use. He felt those should be addressed at the time of zone change or specific application for development. They were not necessary to provide support for positive findings for the annexation approval criteria. Specifically he referred to the requirement for a TIA (Traffic Impact Analysis). This condition required the applicant to conduct a complete TIA at the time of zone change. The condition would embed in the annexation decision an obligation for the applicant to perform a TIA at the time of zone change with the justification it was required to comply with the TPR (State Transportation Planning Rule). The TPR required a traffic impact analysis in certain situations. There were also situations where a TIA could be avoided. This was circumstance specific. According to State Administrative Rule 660-012-00660(9) a TIA was not required provided that there was no significant effect to State transportation facilities. The question of whether an applicant qualified was a determination made at the time of zone change.

Commissioner Haag said page 10 of 12 stated, "No Transportation Planning Rule analysis is required at this time". The city was working on its Transportation System Plan update.

Chair Thiesfeld suggested the TIA requirement could go in the agreement if needed and applicable.

Commissioner Haag disagreed because a TIA at this time could conflict with updates to the Transportation System Plan.

Mr. Klingensmith offered that an annexation agreement was intended to resolve fiscal impacts upon the city caused by the proposed annexation. Traffic scoping was addressed by State law. A requirement for a TIA at this stage in the process could discourage an applicant and possibly be a requirement above and beyond state law.

The heart of the approval standard here was, could key services be provided. The answer was yes, they could.

The applicant would request that the Planning Commission forward a recommendation to the City Council retaining condition 12 and removal of condition one through 11.

Planner Darnielle responded the proposed Final Order was not saying the conditions had to be met now. The proposed conditions would be met in the future, at the time of zone change and/or development. It did not imbed the criteria in the annexation.

Commissioner Haag disagreed. He did not see a risk in excluding conditions 1-11. These conditions were not necessary at the time of annexation.

Commissioner Sumner asked how the conditions were derived.

Planner Darnielle responded the conditions were an attempt to show the city met each of the approval standards. Each condition was attached to approval criteria in the Code or by reference in the Comprehensive Plan.

Commissioner Sumner asked why a condition for a TIA at the time of zone change would be included with the annexation request.

Planner Darnielle replied the condition was attached to the Comprehensive Plan policy that stated public facilities and services could be provided in an orderly and economic manner. The applicant was not expected to conduct a TIA now, or address the Transportation Planning Rule. To address the criteria, the condition acknowledged the criteria would be looked at down the road.

He agreed with Mr. Klingensmith, the condition wording should be modified to read something such as "at the time of the zone change the Transportation Planning Rule should be addressed and satisfied which may or may not require a TIA".

Commissioner Haag asked Planner Darnielle if he was correct that the only condition required to move forward with the annexation was condition 12, a signed annexation agreement.

Planner Darnielle answered if that was what the Public Works Director was saying, and then it was correct.

Commissioner Haag asked why conditions, that as he understood them were incorrect should remain in the proposed final order.

Planner Darnielle replied if they believed certain criteria had been satisfied, those conditions should be removed.

Commissioner Haag asked if they were required to have any other condition than conditions 12 in order to recommend approval.

Planner Darnielle replied it depended upon what the Commission thought, whether or not there were issues revolving around any the services. If they did not believe so, they could just keep condition 12.

Mr. Klingensmith asked if the Commissioners had questions.

Commissioner Sumner felt conditions that did not directly relate to the annexation criteria should be removed.

Chair Thiesfeld asked if there were any other comments.

There were none.

Opponent Testimony

Chair Thiesfeld asked if there were audience members who wished to make remarks.

There were none.

Neutral Parties Testimony

Chair Thiesfeld asked if there were audience members who wished to make remarks.

There were none.

Applicant Rebuttal

Chair Thiesfeld asked if the applicant had comments in response to the public testimony.

There were no comments from the applicant or his representative, Mr. Klingensmith.

Chair Thiesfeld asked if there were audience members who wished to make remarks.

There were none.

Chair Thiesfeld asked if there were any comments from the Commission.

Commissioner Haag restated his opinion to remove all but condition 12 to the proposed final order.

Chair Thiesfeld closed the public hearing.

Planning Commission Deliberations

Commissioner Haag felt several of the conditions should be addressed at the time of zone change rather than annexation.

Chair Thiesfeld called for a motion.

●**Motion:** Commissioner Haag made a motion to recommend to City Council approval of the annexation of the property at the southwest corner of Highways 36 and 99, owned by Ivory, LLC and identified with the file number A-13-01, omitting conditions 1 -11 and retaining condition 12.

Administrator Bowers recapped the motion was in reference to the proposed final order which was attachment B of the staff report. Commissioner Haag was suggesting, under the conditions, striking conditions of approval 1-10.

Commissioner Haag withdrew his motion.

Motion: Commissioner Haag made a motion to adopt Planning Commission Final Order A-13-01 and forward the matter of Ivory LLC annexation to the Junction City, City Council, striking all except the annexation agreement from the conditions of approval.

1. An Annexation Agreement shall be signed prior to the effective date of the annexation.

Commissioner Solberg seconded the motion.

Vote: 7:0:0

Chair Thiesfeld, Commissioners, Haag, Hukill, Phelan, Dunn, Sumner and Solberg voted in favor.

5-b. PLANNING COMMISSION VACANCIES

Administrator Bowers stated before the Commission was an application for the first alternate position the posting requirement was met. The second alternate position

posting timeframe would be met on March 18, 2014. There was one (1) application. The applicant originally applied for a regular Planning Commission seat. The applicant asked that his application be resubmitted for an alternate position. Included with the application was a letter from the applicant describing his interest.

The Commission discussed filling the vacant position. Director Bowers noted the first review date deadline was January 31, 2014 but was posted as open until filled. The Commission had the option to leave the position open and table the item at this time until additional applications were received.

●**Motion:** Commissioner Phelan made a motion to table the application until additional applications were received. Commissioner Haag seconded the motion.

Vote: 7:0:0

Chair Thiesfeld, Commissioners, Haag, Dunn Hukill, Phelan, Sumner and Solberg voted in favor.

5-c. MOTION CLARIFICATION: VAR-13-02 O'REILLY AUTO PARTS EXTENSION REQUEST

Secretary Andrews stated Staff was requesting clarification on the motion made at the January 21, 2014 meeting to approve the extension request from O'Reilly Auto Parts for VAR-13-02/DEV-13-02. The second was not captured during the meeting or on the audio recording.

The motion was restated and a vote taken.

Motion: Commissioner Sumner made a motion to approve a request from O'Reilly Auto Parts for an extension of their variance, file number VAR-13-02. The motion was seconded by Commissioner Hukill.

Vote: 7:0:0

Chair Thiesfeld, Commissioners, Haag, Dunn, Hukill, Phelan, Sumner and Solberg voted in favor.

6. PLANNING ACTIVITY REPORT

The Planning Commission reviewed the Planning Activity Report for the month of January 2014.

Administrator Bowers stated there was a conflict with the standing meeting date of March 18, 2014. There were two (2) suggested alternate dates March 19 or March 20, 2014.

Motion: Commissioner Hukill made a motion to hold the meeting on March 20, 2014 at 6:30 pm. The motion was seconded by Commissioner Sumner.

Vote: 7:0:0

Chair Thiesfeld, Commissioners, Haag, Dunn, Hukill, Phelan, Sumner and Solberg voted in favor.

7. PLANNING COMMISSIONER COMMENTS

Commissioner Haag asked Planner Darnielle if it was possible to annex properties en masse. (UGB expansion)

Planner Darnielle said the city would need to adopt an annexation plan. It would identify the properties to be annexed. It would need to be preceded by some sort of a Planning effort. He offered to bring back options.

Commissioner Sumner said he did not want to see forced annexations.

Commissioner Haag agreed.

8. ADJOURNMENT

Motion: Commissioner Sumner made a motion to adjourn the meeting. Commissioner Solberg seconded the motion.

Vote: 7:0:0

Chair Thiesfeld, Commissioners, Haag, Dunn, Hukill, Phelan, Sumner and Solberg voted in favor.

The meeting adjourned at 7:45 p.m.

The next scheduled Planning Commission meeting would be Thursday, March 20, 2014 at 6:30 p.m.

Respectfully Submitted,

Tere Andrews, Planning Secretary

Jason Thiesfeld, Chair